

DOCKET FILE COPY ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Applications of:	)	WT Docket No. 97-199
)	
WESTEL SAMOA, Inc.	)	File No. 00560-CW-L-96
)	
For Broadband Block C Personal)	
Communications Services Facilities)	
)	
and)	
)	
WESTEL, L.P.	)	File Nos. 00129-CW-L-97
	)	00862-CW-L-97
For Broadband Block F Personal	)	00863-CW-L-97
Communications Services Facilities	)	00864-CW-L-97
	)	00865-CW-L-97
	)	00866-CW-L-97

To: The Honorable Arthur I. Steinberg
Administrative Law Judge

CLEARCOMM'S MOTION TO ENLARGE ISSUES

Robert L. Pettit
Richard H. Gordin
Marilyn E. Kerst
Bryan N. Tramont
of
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-7000

Dated: August 12, 1998

D+6

TABLE OF CONTENTS

SUMMARY	ii
I. A Substantial and Material Question of Fact Exists As To Whether Mr. Easton Has Misled the Commission in this Proceeding	2
II. Mr. Easton Repeatedly Stated Under Oath That He Was Unaware of Facts or Documents Referring or Relating to His Reputation for Truthfulness or Untruthfulness.....	5
III. Mr. Easton Lacked Candor Before the Commission By Failing to Disclose Facts or Produce Documents Referring or Relating to Both a Final Determination that He Had Acted Dishonestly and His Reputation for Truthfulness or Untruthfulness	7
A. Mr. Easton Both Testified Untruthfully During His Deposition and Violated the Presiding Officer's Order By Failing to Disclose Facts or Produce Documents Referring or Relating to a Contempt Order Issued Against Him	7
B. Mr. Easton Both Testified Untruthfully During His Deposition and Violated the Presiding Officer's Order By Failing to Disclose Facts or Produce Documents Referring or Relating to Numerous Complaints Filed Against Him Alleging Misrepresentation and Fraud.....	9
CONCLUSION.....	14

SUMMARY

Anthony T. Easton, despite his duty of candor to this tribunal and the Presiding Officer's specific order, has failed to disclose the existence of substantial evidence relating to his character for truthfulness. Indeed, while Mr. Easton testified under oath during his deposition that he was unaware of any judicial determinations in which he had been found to have acted dishonestly, Mr. Easton was fully aware that in 1991 he was the object of a contempt order issued by the United States District Court for the Northern District of California – an order that described Mr. Easton's actions as "sleazy" as it concluded that he had engaged in willful misrepresentation to that court. Likewise, Mr. Easton failed to disclose under oath numerous misrepresentation and fraud complaints lodged against him. Indeed, allegations of dishonesty have been routinely leveled against Mr. Easton. Mr. Easton's actions and statements also violated the Presiding Officer's order to disclose facts or produce documents relating to his character for truthfulness. For these reasons, ClearComm moves to enlarge the issues in this proceeding to include: Whether Mr. Easton engaged in misrepresentations before and/or exhibited a lack of candor during discovery in this proceeding. And, if Mr. Easton did engage in such conduct, whether Mr. Easton should be barred from holding Commission authorizations and participating in future Commission auctions.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of	)	WT Docket No. 97-199
)	
WESTEL SAMOA, INC.	)	File No. 00560-CW-L-96
)	
For Broadband Block C Personal)	
Communications Systems Facilities)	
)	
and)	
)	
WESTEL, L.P.	)	File Nos. 00129-CW-L-97
	)	00862-CW-L-97
For Broadband Block F Personal	)	00863-CW-L-97
Communications System Facilities	)	00864-CW-L-97
	)	00865-CW-L-97
	)	00866-CW-L-97
To: The Honorable Arthur I. Steinberg		
Administrative Law Judge		

CLEARCOMM'S MOTION TO ENLARGE ISSUES

ClearComm, L.P. ("ClearComm"), formerly known as PCS 2000, by and through undersigned counsel and pursuant to Section 1.229(b)(3) of the FCC rules,¹ hereby moves to enlarge the issues designated for hearing in the above-captioned proceeding to include whether Anthony T. Easton should be disqualified from holding FCC licenses for making misrepresentations and lacking candor during the course of this proceeding.

As detailed below, Mr. Easton in this proceeding denied under oath that he was aware of any judicial determinations in which he had been found to have acted dishonestly. In fact, however, in 1991 the United States District Court for the Northern District of California issued a

¹ 47 C.F.R. § 1.229(b)(3).

contempt order against Mr. Easton based on a finding of willful misrepresentation. Likewise, Mr. Easton testified untruthfully under oath during his deposition regarding numerous complaints lodged against him alleging misrepresentation and fraud. Indeed, the facts reveal that Mr. Easton is a frequent defendant against whom allegations of dishonesty have constantly been leveled. Mr. Easton's actions and statements also violated the Presiding Officer's order to disclose facts or produce documents relating to Mr. Easton's character for truthfulness. For these reasons, ClearComm moves to enlarge the issues in this proceeding as they relate to Mr. Easton.² ClearComm does not believe that granting this Motion will interfere with the scheduled hearing in this matter.³

I. A Substantial and Material Question of Fact Exists As To Whether Mr. Easton Has Misled the Commission in this Proceeding

1. Commission Rule 1.229 permits enlargement of issues based upon the requisite showing under a two-step analysis. As an initial matter, the Commission must examine whether "a grant of the application would be prima facie inconsistent with [the public interest,

² Two factors influenced ClearComm's decision to file the Motion at this time. First, it took considerable time to obtain the relevant court documents from the California proceedings. In ClearComm's view, any filing without documentation would have been inadequate. Second, although ClearComm had initially intended to await Mr. Easton's verification of his deposition before filing this Motion, ClearComm files today because any further delay could hinder the efficient resolution of these issues. Mr. Easton still has not verified his deposition even though the deposition was completed on June 24, 1998. However, due to the repeated representations made by Mr. Easton, any attempt to "cure" these misrepresentations after the filing of this Motion would be both ineffective and unconvincing.

³ ClearComm believes the relevant documents should be within Mr. Easton or his agent's control. Therefore, there is no reason these documents cannot be produced well in advance of the hearing.

convenience, and necessity].”⁴ In so doing, the Presiding Officer “must proceed ‘on the assumption that the specific facts set forth [in the petition] are true.’”⁵ Once this initial standard is met, the Commission looks to “the application, the pleadings filed, or other matters which it may officially notice” to determine if a “substantial and material question of fact” exists.⁶ If the moving party demonstrates that a substantial and material question of fact exists, the Presiding Officer should conduct a hearing on the issue.⁷

2. According to the Commission’s Character Policy Statement, “[t]he Communications Act makes character a relevant consideration in the issuance of a license. See section 308(b), 47 U.S.C. 308(b). Significant character deficiencies may warrant disqualification, and an issue will be designated where appropriate. . . . [P]etitions to add an issue on conduct relating to character will be entertained.”⁸ In general, the Commission is concerned about “misconduct which demonstrate[s] the proclivity of an applicant or licensee to deal truthfully with the Commission and to comply with [the Commission’s] rules and policies.”⁹

⁴ Astroline Com. Co. Ltd. Partnership v. FCC, 857 F.2d 1556, 1561 (D.C. Cir. 1998) (quoting 47 U.S.C. § 309(d)(1)) (parenthetical in the original). While Mr. Easton is not formally an “applicant” before the Commission, his status under the Hearing Designation Order is certainly analogous as it contemplates barring Mr. Easton from holding Commission licenses or participating in future auctions.

⁵ Id. (quoting Citizens for Jazz on WRVR v. FCC, 775 F.2d 392, 397 (D.C. Cir. 1985)) (parenthetical in the original).

⁶ 47 U.S.C. § 309.

⁷ Astroline, 857 F.2d at 1561.

⁸ Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393 ¶ 6 (1965).

⁹ Policy Regarding Character Qualifications in Broadcast Licensing, 102 FCC 2d 1179, 1190-1191 (1986)(1986 Character Policy).

The Commission has found that as to civil matters “judgments relating to fraudulent representations to a governmental unit . . . bear most directly on an applicant’s qualifications. . . .”¹⁰

3. An FCC licensee retains a duty “to be forthcoming as to all facts and information relevant to a matter before the FCC, whether or not such information is particularly elicited.”¹¹ Moreover, “[t]ruthfulness and full candor are as much expected in discovery as they are with respect to submissions to the Commission itself.”¹² A breach of this duty provides grounds for disqualification.¹³ Accordingly, the Commission “is not expected to play procedural games with those who come before it in order to ascertain the truth.”¹⁴

4. The Commission views a licensee’s misrepresentation or lack of candor as a serious breach of trust.¹⁵ The Commission recognizes that:

In view of the fundamental importance of licensee truthfulness and the dependability of our licensing scheme on such truthfulness, the fact of a concealment or misstatement may have more significance than the actual fact concealed, FCC v. WOKO, 329 U.S. 223, 227 (1946), and we have explicitly

¹⁰ Policy Regarding Character Qualifications in Broadcast Licensing, 6 FCC Rcd 3448, ¶ 8 (1991); 1986 Character Policy, 102 FCC 2d at 1195-1197, 1200-1203.

¹¹ Swan Creek Communications v. FCC, 39 F.3d at 1217, 1222 (D.C. Cir. 1994) (quoting Silver Star Communications, --Albany, Inc., 3 FCC Rcd 6342, 6349 (Rev. Bd. 1988)).

¹² Kate F. Thomas, 8 FCC Rcd 7630, 7632 (Rev. Bd. 1993) (quoting Edwin A. Bernstein, 6 FCC Rcd 6841, 6844 n. 6 (1991)).

¹³ Pass Word, Inc., 76 FCC 2d 465 (1980), aff’d per curiam Pass Word, Inc. v. FCC, 673 F.2d 1363 (D.C. Cir. 1982).

¹⁴ Garden State Broadcasting v. FCC, 996 F.2d 386, 393 (D.C. Cir. 1993) (quoting RKO General, Inc. v. FCC, 670 F.2d 215, 229 (D.C. Cir. 1981).

¹⁵ Swan Creek, 39 F.3d at 1221-22.

refused to renounce our authority to consider even the most insignificant misrepresentation as disqualifying.¹⁶

5. Misrepresentations made during the course of a hearing have provided grounds for enlarging the issues to be considered by the Commission. In Weyburn Broadcasting Ltd. Partnership v. FCC,¹⁷ for example, the Commission added a misrepresentation issue because, in the context of the hearing itself, testimony of key witnesses for the license applicant conflicted with the documentary evidence. Also, in Richard Bott II and Western Communications, Inc.,¹⁸ where "there [arose] a question as to whether [a licensee] misrepresented facts or lacked candor . . . in his statements made during the course of the hearing," the Commission designated the misrepresentation issues for an evidentiary hearing, noting that the Commission "must demand candor from those who come before it and must refuse to tolerate deliberate misrepresentations."¹⁹ Thus, issues involving licensee misrepresentation and lack of candor in the course of a hearing raise substantial and material questions of fact as to whether a licensee remains qualified.

II. Mr. Easton Repeatedly Stated Under Oath That He Was Unaware of Facts or Documents Referring or Relating to His Reputation for Truthfulness or Untruthfulness

6. Mr. Easton has denied knowledge of any facts or documents relating or referring to his reputation for truthfulness or untruthfulness on at least two occasions. While being

¹⁶ San Joaquin Television Improvement Corp., 2 FCC Rcd 7004, 7005 (1987).

¹⁷ 984 F.2d 1220 (D.C. Cir.1993).

¹⁸ 8 FCC Rcd 4074 (1993).

¹⁹ Id. at ¶ 10 (quoting Nick J. Chaconas, 28 FCC 2d 231, 233 (1971) (citing WOKO, Inc.,
(Continued...))

deposed under oath on June 23, 1998 [hereinafter “the June 23 Deposition”], Mr. Easton was asked the following question: “Have you been a witness or a party in any judicial action within the past ten years where there’s been a determination that you gave a false statement or testimony or that you acted dishonestly?”²⁰ Mr. Easton responded, “No, sir.”²¹ In the same deposition, Mr. Easton was asked whether he was aware of “[a]ny documents in your possession, custody or control that refer or relate to your reputation for truthfulness or untruthfulness?” Again, Mr. Easton responded, “No, sir.”²²

7. In addition, on June 10, 1998, the Presiding Officer directed Mr. Easton to “produce documents relating or referring to any administrative proceedings or actions wherein, within the past 10 years, a final determination was made that he gave a false statement or testimony, or that he acted dishonestly,” and also to “produce documents referring or relating to his reputation for truthfulness or untruthfulness.”²³ In response to this order, Mr. Easton’s

(...Continued)
329 U.S. 223 (1946))).

²⁰ Deposition of Mr. Easton, at 59 (June 23, 1998) (Attachment 1).

²¹ Id.

²² Id. at 62.

²³ See In re Applications of Westel Samoa, Inc. for Broadband Block C Personal Communications Systems Facilities and Westel, L.P. for Broadband Block F Personal Communications Systems Facilities, Memorandum Opinion and Order, at ¶ 16, WT Docket No. 97-199, File No. 00560-CW-L-96, File Nos. 00129-CW-L-97, et al. (rel. June 10, 1998) [hereinafter Westel Discovery Order].

counsel stated that “[n]o documents exist to our knowledge concerning this category to the extent the Judge has required production”²⁴

These representations are demonstrably untrue.

III. Mr. Easton Lacked Candor Before the Commission By Failing to Disclose Facts or Produce Documents Referring or Relating to Both a Final Determination that He Had Acted Dishonestly and His Reputation for Truthfulness or Untruthfulness

8. Through his failure to disclose facts or produce documents pertaining to a contempt order and numerous complaints alleging fraud against him, Mr. Easton has raised serious questions regarding Mr. Easton’s candor before the Commission.

A. Mr. Easton Both Testified Untruthfully During His Deposition and Violated the Presiding Officer’s Order By Failing to Disclose Facts or Produce Documents Referring or Relating to a Contempt Order Issued Against Him

9. Mr. Easton failed to disclose a contempt order [hereinafter “the Federal Contempt Order”] issued against him by the United States District Court for the Northern District of California.²⁵ In that case, the court specifically found that Mr. Easton “misled the court as to the state of affairs with respect to” a stock transfer and characterized Mr. Easton’s prevarications as “sleazy.”²⁶ In issuing the contempt order, the court stated that defendant “Easton directly, and

²⁴ See Letter from George Lyon to Robert Pettit, Bryan Tramont, Richard Gordin, Marilyn Kerst, dated June 17, 1998 (Attachment 2).

²⁵ Quentin L. Breen, Anthony T. Easton, et al. v. Genaro Delgado Parker, et al., Civil No. C-90-2745 MHP (N.D. Cal. 1991) (order finding Easton in contempt) (Attachment 3).

²⁶ Novatel Fin., Inc. v. Anthony T. Easton, et al., Civil No. C-91-1448 MHP (N.D. Cal. 1991) (transcript of proceeding) (Attachment 4).

through [his] counsel, willfully misrepresented to the Court the status” of the stock transfer and directed Easton immediately to rectify the situation.²⁷

10. The existence of the Federal Contempt Order directly contradicts sworn testimony given by Mr. Easton. During his deposition, Mr. Easton denied that he had been a party to any judicial activity within the past ten years where a court determined that he had acted dishonestly²⁸ and stated that he was unaware of any documents relating to his reputation for truthfulness or untruthfulness.²⁹ Mr. Easton’s failure to disclose relevant information in this matter calls into question his fitness to hold FCC licenses. Thus, in the light of the “fundamental importance of licensee truthfulness,”³⁰ this matter raises a substantial and material question of fact, which warrants an enlargement of the issues in this proceeding.

11. In addition, the Federal Contempt Order, which resulted from Easton’s deliberate misrepresentation, is a “final determination” that Mr. Easton “gave a false statement or testimony, or that he acted dishonestly.”³¹ The Order also refers or relates to Mr. Easton’s reputation for truthfulness or untruthfulness. By failing to disclose this matter, Mr. Easton violated the discovery Order regarding the production of documents given by the Presiding Officer on June 10, 1998.³²

²⁷ Id.

²⁸ Deposition of Mr. Easton, at 59 (June 23, 1998) (Attachment 1).

²⁹ Id. at 62.

³⁰ San Joaquin, 2 FCC Rcd at 7005.

³¹ See Westel Discovery Order, at ¶ 16.

³² See Westel Discovery Order, at ¶ 16.

B. Mr. Easton Both Testified Untruthfully During His Deposition and Violated the Presiding Officer's Order By Failing to Disclose Facts or Produce Documents Referring or Relating to Numerous Complaints Filed Against Him Alleging Misrepresentation and Fraud.

12. As set out above, the Presiding Officer's order required Mr. Easton to "produce documents *referring or relating to his reputation* for truthfulness or untruthfulness."³³ Common sense suggests, and the Federal Rules of Evidence provide, that specific instances of misconduct relate to reputation.³⁴ Accordingly, Mr. Easton was obliged to turn over any documentation of such instances. ClearComm has discovered numerous complaints alleging misrepresentation and fraud against Mr. Easton that would seem to reflect negatively on his reputation for truthfulness. At the very least, the information regarding these lawsuits, all but one of which relate to Mr. Easton's conduct in FCC-licensed activities, was responsive to both the questions posed to Mr. Easton during the June 23 Deposition and the Presiding Officer's Order. San Francisco Superior Court records in San Francisco, California and San Mateo Superior Court records in Redwood City, California reveal the following matters which name Mr. Easton as a defendant in actions reflecting on his character for truthfulness³⁵:

³³ Westel Discovery Order, at ¶ 16 (emphasis added).

³⁴ In general, Commission hearings are governed by the Federal Rules of Evidence. 47 CFR § 1.351. Federal Rule of Evidence 608, Subsection (b), permits introduction of "[s]pecific instances of conduct" as relating to the witness' reputation and "character for truthfulness."

³⁵ ClearComm has only conducted research in these two jurisdictions. It does not claim to have exhaustive knowledge regarding the substance or disposition of these actions. Clearly, however, they should have been disclosed by Mr. Easton in discovery so that ClearComm and the Bureau would have had a full opportunity to explore these claims.

- On June 12, 1991, Todd A. Pitts filed a complaint against Mr. Easton alleging *inter alia* fraud and misrepresentation.³⁶ These allegations include that Mr. Easton “falsely and fraudulently” represented facts.³⁷ On May 5, 1994, it appears as if the case was resolved through settlement.³⁸
- On April 4, 1991, Dennis B. Adams, B. Lee Allen, IV, Deborah Baker, William Kearney, and Brian Linsley filed a complaint against Mr. Easton alleging *inter alia* civil conspiracy, fraud, and negligent misrepresentation.³⁹ Mr. Easton was accused of “intentionally or recklessly” making material misrepresentations and omissions of fact.⁴⁰ On May 18, 1995, and June 14, 1995, it appears as if the case was resolved through settlement.⁴¹
- On September 30, 1992, Silver Wings, L.P., filed a complaint against Mr. Easton alleging *inter alia* fraud and negligent misrepresentation.⁴² Mr. Easton

³⁶ Plaintiff’s Complaint at 12-23, Todd A. Pitts v. Romulus Corp., et al. (No. 933210) (Attachment 5).

³⁷ *Id.* at 14.

³⁸ Formally, the plaintiff requested the action be dismissed with prejudice. Docket Sheet, Superior Court of California, County of San Francisco, Todd A. Pitts v. Romulus Corp., et al. (No. 933210) (Attachment 6).

³⁹ Plaintiffs’ Complaint at 13-29, Dennis B. Adams, et al. v. Boardwalk Capital Corp. (No. 930727) (Attachment 7).

⁴⁰ *Id.* at 22.

⁴¹ Formally, plaintiffs filed their requests that the action be dismissed with prejudice. Plaintiffs’ Request for Dismissal, Dennis B. Adams, et al. v. Boardwalk Capital Corp. (No. 930727) (Attachment 8).

⁴² Plaintiffs’ Complaint at 11-17, Silver Wings, et al. v. Romulus Eng’g, et al., (No. (Continued...))

allegedly made knowing false representations about the preparation of FCC applications.⁴³ On June 13, 1994, it appears as if the case was resolved through settlement.⁴⁴

- On November 5, 1992, Cellswitch, L.P., filed a complaint against Mr. Easton alleging *inter alia* fraud and negligent misrepresentation.⁴⁵ Mr. Easton allegedly made knowing false representations about the preparation of FCC applications.⁴⁶ On June 14, 1998, it appears as if the case was resolved through settlement.⁴⁷
- On March 2, 1992, Federal Mobile Radio, L.P., filed a complaint against Mr. Easton alleging *inter alia* fraud and negligent misrepresentation.⁴⁸ Mr. Easton allegedly made knowing false representations about the preparation of

(...Continued)
946286) (Attachment 9).

⁴³ Id. at 13.

⁴⁴ Formally, plaintiffs filed their request that the action be dismissed with prejudice. Plaintiffs' Request for Dismissal, Silver Wings, et al. v. Romulus Eng'g, et al., (No. 946286) (Attachment 10)

⁴⁵ Plaintiffs' Complaint at 11-17, Cellswitch, et al. v. Romulus Eng'g, et al., (No. 947093) (Attachment 11).

⁴⁶ Id. at 13-14.

⁴⁷ Formally, plaintiffs filed their request that the action be dismissed with prejudice. Plaintiffs' Request for Dismissal, Cellswitch, et al. v. Romulus Eng'g, et al., (No. 947093) (Attachment 12).

⁴⁸ Plaintiffs' Complaint at 8-14, Fed'l Mobile Radio, et al. v. Romulus Eng'g, et al., (No. 94022) (Attachment 13).

FCC applications.⁴⁹ On July 5, 1995, it appears as if the case was resolved through settlement.⁵⁰

- On November 5, 1993 Quadrangle Communications filed a complaint against Mr. Easton alleging *inter alia* fraud and negligent misrepresentation.⁵¹ Mr. Easton allegedly made knowing false representations about his ability to form investment groups and prepare acceptable FCC applications.⁵² On August 12, 1994, it appears as if the case was resolved through settlement.⁵³
- On April 3, 1990, Sherri Krow filed a complaint against Mr. Easton alleging fraud regarding title to certain land.⁵⁴ On December 10, 1990, this matter was referred by the court to arbitration.⁵⁵

13. The sheer number of complaints filed against Mr. Easton and the fact that they allege misrepresentation and fraud—which involve deceit—clearly appertain to Mr. Easton’s

⁴⁹ Id. at 10-11.

⁵⁰ Formally, plaintiffs filed their request that the action be dismissed with prejudice. Plaintiffs’ Request for Dismissal, Fed’l Mobile Radio, et al. v. Romulus Eng’g, et al., (No. 94022) (Attachment 14).

⁵¹ Plaintiffs’ Complaint at 8-17, Quadrangle Communications, et al. v. Romulus Eng’g, et al. (No. 956163) (Attachment 15).

⁵² Id. at 12-13.

⁵³ Formally, plaintiffs filed their request that the action be dismissed with prejudice. Plaintiffs’ Request for Dismissal, Quadrangle Communications, et al. v. Romulus Eng’g, et al. (No. 956163) (Attachment 16).

⁵⁴ Plaintiff’s Complaint at 2, Sherri Krow v. Anthony Easton & Susan Easton (No. C94543) (Attachment 17).

⁵⁵ Order of Referral to Arbitration, Sherri Krow v. Anthony Easton & Susan Easton (No.

(Continued...)

reputation. Consequently, Mr. Easton should have disclosed this information in his sworn testimony. In addition, documents related to these proceedings were responsive to the Presiding Officer's Order.⁵⁶ Mr. Easton's refusal to disclose this information rendered the Presiding Officer's Order meaningless because ClearComm and the Bureau were stonewalled in their ability to explore issues that the Presiding Officer determined to be relevant. Mr. Easton's failure to answer forthrightly during his deposition or comply with the Order raises a substantial and material question of fact regarding his candor, or lack thereof. Accordingly, the Presiding Officer should add an issue to determine whether Mr. Easton misrepresented facts or lacked candor before the Commission in this proceeding.

(...Continued)
C94543) (Attachment 18).

⁵⁶ Though a majority of these cases appear to have settled, this by no means weakens the merit of the underlying claims. If anything, the fact that the cases settled may indicate the strength of the claims filed against Easton.

CONCLUSION

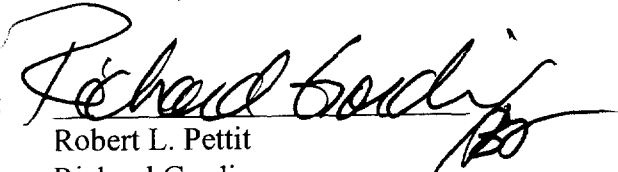
For the foregoing reasons, ClearComm respectfully requests that the Presiding Officer enter an order enlarging the issues designated for hearing to include:

Whether Mr. Easton engaged in misrepresentations before and/or exhibited a lack of candor during discovery in this proceeding. And, if Mr. Easton did engage in such conduct, whether Mr. Easton should be barred from holding Commission authorizations and participating in future Commission auctions.

Respectfully submitted,

CLEARCOMM, L.P.

By:

A handwritten signature in dark ink, appearing to read "Richard Gordin" with a large flourish at the end.

Robert L. Pettit

Richard Gordin

Marilyn E. Kerst

Bryan N. Tramont

of

WILEY, REIN & FIELDING

1776 K Street, N.W.

Washington, D.C. 20006

(202) 429-7000

Dated: August 12, 1998

CERTIFICATE OF SERVICE

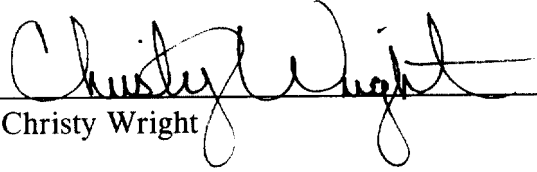
I hereby certify that on this 12th day of August, 1998, I caused copies of the foregoing
"Motion to Enlarge" to be hand-delivered to the following:

The Honorable Arthur I. Steinberg
Administrative Law Judge
Federal Communications Commission
2000 L Street, N.W., Room 229
Washington, D.C. 20554

Katherine Power, Esq.
Judy Lancaster, Esq.
Federal Communications Commission
Enforcement Division
2025 M Street, N.W., Room 8308
Washington, D.C. 20554

Russell D. Lukas, Esq.
George L. Lyon, Esq.
Lukas, Nace, Gutierrez & Sachs, Chartered
1111 19th Street, N.W., 12th Floor
Washington, D.C. 20036

A. Thomas Carroccio, Esquire
Bell, Boyd & Lloyd
1615 L Street, N.W.
Washington, D.C. 20036


Christy Wright

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

-----X
:
In re Applications of : WT Docket No.
: 97-199
WESTEL SAMOA, INC. :
: File No.
For Broadband C Block Personal : 00560-CW-L-96
Communications Services Facilities :
:
and : File Nos.
: 00129-CW-L-97
WESTEL, L.P. : 00862-CW-L-97
: 00863-CW-L-97
For Broadband C Block Personal : 00864-CW-L-97
Communications Services Facilities : 00865-CW-L-97
: 00866-CW-L-97
-----X

Deposition of Anthony Terry Easton
District of Columbia
Tuesday, June 23, 1998

Reported by: Justina M. Consolazio
JOB NO. 108752

1 know she has an apartment. I thought she lived in a
2 house or condo.

3 Q I misspoke.

4 A I'm sorry.

5 Q The question would be are you aware of
6 whether she has any firearms in her residence?

7 A No, sir.

8 MR. LYON: Let the record reflect
9 that the second amendment to the Constitution gives
10 her the right to have such weapons.

11 MR. GORDIN: Let's take a break for a
12 few minutes.

13 (Lunch break taken from 12:15 to 1:50 p.m.)

14 (Mr. Pettit out.)

15 MR. LYON: I'd like to reflect the
16 witness was here at 1:30.

17 MS. LANCASTER: So was FCC.

18 (Telephone Conference with Judge.) (Resume at 2:41.)

19 (Ms. Kerst out.)

20 BY MR. GORDIN:

21 Q On the record. Mr. Easton, have you been
22 a party or a witness in any administrative

SHERRY ROE & ASSOCIATES, INC.

1 proceedings within the past ten years where there's
2 been a determination made that you gave a false
3 statement or testimony or acted dishonestly?

4 A No, sir.

5 Q Have you been a witness or a party in any
6 judicial action within the past ten years where
7 there's been a determination that you gave a false
8 statement or testimony or that you acted
9 dishonestly?

10 A No, sir.

11 Q Are there any -- are you aware of any
12 documents that exist where a governmental unit has
13 determined, made any determination of your
14 truthfulness or untruthfulness? (Ms. Kerst in.)

15 MR. LYON: Just for clarification,
16 counsel, do you mean other than the notice of
17 apparent liability?

18 MR. GORDIN: Yes.

19 MR. LYON: Okay.

20 MR. GORDIN: Other than in this
21 particular matter, yes.

22 THE WITNESS: This is in the past two

SHERRY ROE & ASSOCIATES, INC.

1 years?

2 MR. LYON: Ten years.

3 BY MR. GORDIN:

4 Q Ten years.

5 A Could you repeat the question?

6 * Q Are you aware of any determinations by any
7 governmental units within the past ten years that
8 you have been truthful or untruthful?

9 MR. LYON: Objection to the form. Is
10 this in reference to one of the orders of the judge
11 in terms of what can be inquired into?

12 MR. GORDIN: Well, one of the things
13 -- one of the things the judge said can be inquired
14 into are documents referring or relating to
15 reputation for truthfulness or untruthfulness, and
16 reputation can be impeached by specific acts of
17 truthfulness or untruthfulness. If the issue of
18 reputation for truthfulness is raised, specific acts
19 can be used to show untruthfulness, and therefore
20 I'm asking whether there are any documents
21 containing allegations of determinations that within
22 the past ten years that Mr. Easton has made

SHERRY ROE & ASSOCIATES, INC.

1 misrepresentations or been untruthful.

2 MR. LYON: That's what the judge
3 says, that specific acts can be inquired into.

4 MR. GORDIN: No, the judge didn't
5 comment on that. The judge said we could ask for
6 documents referring or relating. I can get the
7 order if you want.

8 MR. LYON: That's okay.

9 MR. GORDIN: That's my
10 understanding. I don't have the order in front of
11 me.

12 MR. LYON: I direct the witness that
13 he may, that he is to respond only to documents with
14 respect to his reputation for truth or
15 untruthfulness. I direct him not to answer with
16 respect to specific acts.

17 THE WITNESS: Okay.

18 MR. LYON: Do you understand my
19 direction?

20 THE WITNESS: I think so.

21 BY MR. GORDIN:

22 Q Are you willing to answer that question

SHERRY ROE & ASSOCIATES, INC.

1 with regard to whether there are, whether you are
2 aware of any determination by any governmental unit
3 of your truthfulness?

4 A The question is -- can you repeat the
5 question, please?

6 Q Are you aware of any documents referring
7 or relating to your reputation for truthfulness or
8 untruthfulness?

9 A From anyone?

10 Q Any documents in your possession, custody
11 or control that refer or relate to your reputation
12 for truthfulness or untruthfulness?

13 A Other than in this case?

14 Q Yes.

15 A No, sir.

16 Q And other than that, are you going to
17 follow your counsel's direction that he just gave
18 you with regard to other questions as to
19 truthfulness or untruthfulness?

20 A Yes, sir.

21 Q Do you know who Cynthia Hamilton is?

22 A Yes, sir.